

EXECUTIVE SECRETARIAT**Routing Slip**

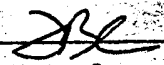
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SUSPENSE

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Remarks:


 Executive Secretary

 4/9/82
 Date

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United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

82-262/3

APR 7 1982

Memorandum

To: James Buckley, Chairman, Senior Interagency Group on the Law of the Sea

From: Donald Paul Hodel
Under Secretary

Subject: Decision Meeting of April 5, 1982

In accord with NSDD 20, the Senior Interagency Group developed instructions for the delegation; the Group was to oversee the course of the negotiations, and thus, implicitly, agree to any change to be made to these instructions. On this basis, the decision meeting of April 5 was called to review changes in instructions recommended by Ambassador Malone, chairman of the delegation. We appreciate the sensitivity of this moment in the Law of the Sea negotiations, but must advise you of our concerns regarding both the strategy and substance proposed by Ambassador Malone at the April 5 meeting.

While we understand a majority of the Senior Interdepartmental Group preferred adopting a "flexible" approach to negotiations in an attempt to prevent early dismissal of the U.S. as a viable negotiating posture, we do not believe the assessment package distributed prior to the meeting represents a position consonant with the President's six objectives of NSDD 20. The package may well bring some progress in negotiations, but marginal improvements to an oppressive negotiating text provide little benefit to the U.S. On the one hand, participants may be led to believe we now prefer a treaty, even at substantial cost to the U.S., having conceded a number of significant earlier concerns. And on the other, our efforts via this package might attract those "on the fence" while remaining unacceptable to the Senate and the mining industry as well as the President -- thus isolating ourselves and perhaps creating the perception of disingenuousness when other participants find we will not or cannot move to ratify.

Each item listed in Ambassador Malone's assessment by itself is not sufficient to cause our concern. Rather, it is the sum of these parts which, again, may create a perception, quite in a political sense, that the President, or his staff, is backing off firmly held objectives which started this Administration's thrust toward a reasonable international framework for deep seabed mining of strategic metals.

GDS 4/4/88
Derivative Dept. of State Memorandum
(L. Paul Bremer, III) dtd 4 Apr 82

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2.

It is the understanding of this Department that the decision agreed to at the meeting under your chairmanship on April 5, 1982, was limited to items: (1) an agreement to relax the instruction regarding removal of the limitation of production of seabed minerals (Item 3B(1), Attachment 3 of your memorandum of April 4) and (2) a removal of the instruction regarding the need for affirmative vote (item 3I of Attachment 3), and was not a blanket endorsement of the package presented in Attachment 1 to that memorandum.

While not making, at this time, specific objection to the two changes noted above, we would like to note that the limitation of production of seabed minerals remains a point of philosophical concern to this Department, even though projections indicate that the potential direct impact on seabed mining may be limited to the mechanism of allocation under the production limitation procedures may well inhibit the orderly development of seabed mining under free market conditions.

Further, the lack of affirmative voting potential has two adverse effects: first, it makes difficult the modification of the rules, regulations, and procedures of the Council, as may well be needed as the industry develops, and as other minerals become important; second, it places added emphasis upon the necessity for significant voting strength in the Preparatory Commission. The question of composition and voting in this Preparatory Commission has been only lightly addressed; we question whether the United States can expect a more significant role in the Preparatory Commission than it can obtain in the Council proper.

It was our understanding that the above constituted the whole of the decision which was being addressed. In spite of the description of the substance of Attachment 1 as a "complete package," we find that the package is too vague and subjective to allow for agreement as being adequate for this Administration and as meeting the President's objectives as stated on January 29, 1982. While the continuation of negotiations is a laudable goal, we must not allow these negotiations to erode the substance of the firmly stated objectives, and particularly considering the precedent-setting nature of many aspects of the proposed Convention as related to the New International Economic Order theses of the developing countries.

Particularly in light of the President's Minerals Policy statement of April 5, it is important that the United States maintains the option for recovery of seabed minerals under our jurisdiction, both manganese nodules and other potential mineral resources of the seabed, while allowing the marketplace to determine the rate of development.

Mr. Chairman, we do not wish to appear obstructive of the fine and tireless efforts of State's principals. Your personal efforts to insure that negotiating progress over the coming weeks remains attuned to the President's objectives and, insofar as possible, the original or only slightly revised instructions would greatly ease our concerns.

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We would deeply appreciate your transmittal to this Department of any draft memorandum summarizing the decision reached at the subject meeting. If the stated decision markedly differs from the understanding noted above, this Department would not concur, and would seek consideration by the President in conformity with NSDD 20. In short, we do not concur that the existing instructions, with the two changes noted, are adequate to cover all the issues proposed in the Delegation Chairman's Assessment and its appendix and that a convention meeting the vague "bottom line" presented would fall far short of providing a ratifiable text.

Ronald Paul Hodel

cc: Senior Interagency Group
on Law of the Sea

